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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re

Jeffrey S. Beier,

Debtor.

Case No. 8:23-bk-10898-TA

Chapter 7

**DEBTOR JEFFREY BEIER'S
EVIDENTIARY OBJECTION TO THE
DECLARATION OF JOSEPH C.
DELMOTTE**

Hearing Date

Date: January 9, 2024

Time: 11:00 a.m.

Place: Courtroom 5B
411 West Fourth Street
Santa Ana, CA 92701-4593

Debtor Jeffrey S. Beier, debtor in the above-captioned bankruptcy case ("Debtor"), hereby objects to the Declaration of Joseph C. Delmotte [docket number 125] (the "Declaration") filed by The Bank of New York Mellon, FKA the Bank of New York Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns Alt-A Trust, Mortgage Pass-through Certificates, Series 2005-04 ("Claimant") in support of its Opposition [docket number 124] to Beier's Objection to Proof of Claim 2-1 Filed by Claimant [docket number 108] (the "Objection").¹

The objections to the Declaration are as follows:


¹ All defined terms used herein have the same meanings as those set forth in the Objection unless defined otherwise.

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Citation to Declaration	Statement in Declaration	Evidentiary Objection
Paragraph 4, page 2, lines 10-20.	“Pursuant to my communications with the Trustee’s counsel of record Nathan Smith regarding the Chapter 7 Trustee’s Motion for an Order: (1) Authorizing Sale of Real Property Free and Clear of Liens and Interests Pursuant to 11 U.S.C. Section 363(f); (2) Approving Overbid Procedures; (3) Approving Broker Compensation; (4) Authorizing Distribution of Sale Proceeds; (5) Determining that the Proposed Buyer and Overbidder Are “Good Faith Purchasers” Under 11 U.S.C. Section 363(m); and (6) Waiving 14 Day Stay Imposed by Federal Rule of Bankruptcy Procedure 6004(h) (“Motion to Sell”) (Docket No. 87) and Order Granting the Motion to Sell (“Sale Order”) (Docket No. 104), he confirmed it was the Trustee’s position that BONY’s lien attached to the sale proceeds by operation of law and therefore it was not necessary to include express language in the Sale Order that BONY’s lien attached to the sale proceeds.”	<p>Lack of personal knowledge and/or speculation; improper expert witness testimony; lack of foundation, legal conclusion, argumentative, and hearsay. Federal Rules of Evidence (which are applicable to this bankruptcy proceeding pursuant to Federal Rule of Evidence 1101) FRE 602, 701, 702, and 801.</p> <p>Declarant is testifying as to out of court communications with the trustee, which are inadmissible hearsay. Further, they are being offered as an expert opinion by the trustee, not the declarant, without establishing the declarant or the trustee as an expert. This is a legal conclusion without support.</p>

Respectfully submitted,

HABERBUSH, LLP

By: 
David R. Haberbush, attorneys for Jeffrey
Beier, Debtor

Date: January 2, 2024

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
444 West Ocean Boulevard, Suite 1400, Long Beach, CA 90802

A true and correct copy of the foregoing document entitled (*specify*): **DEBTOR JEFFREY BEIER'S EVIDENTIARY OBJECTION TO THE DECLARATION OF JOSEPH C. DELMOTTE** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **January 2, 2024**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Anerio V Altman** LakeForestBankruptcy@jubilee.net, lakeforestpacer@gmail.com;ecf@casedriver.com
- **Greg P Campbell** chl1ecf@aldridgepite.com, gc@ecf.inforuptcy.com;gcampbell@aldridgepite.com
- **Arturo Cisneros** arturo@mclaw.org, CACD_ECF@mclaw.org
- **Arturo Cisneros (TR)** amctrustee@mclaw.org, acisneros@iq7technology.com;ecf.alert+Cisneros@titlexi.com
- **Joseph C Delmotte** ecfcacb@aldridgepite.com, JCD@ecf.inforuptcy.com;jdelmotte@aldridgepite.com

- **David R Haberbush** dhaberbush@lbinsolvency.com, ahhaberbush@lbinsolvency.com,abostic@lbinsolvency.com,vh aberbush@lbinsolvency.com,haberbush.assistant@gmail.com, jborin@lbinsolvency.com,lbogard@lbinsolvency.com
- **Michael J Hauser** michael.hauser@usdoj.gov
- **Nathan F Smith** nathan@mclaw.org, CACD_ECF@mclaw.org;mcecfnotices@ecf.courtdrive.com;c valenzuela@mclaw.org
- **United States Trustee (SA)** ustpregion16.sa.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **January 2, 2024**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Brian Thompson
Winterstone Real Estate
23792 Rockfield Blvd Ste 101
Lake Forest, CA 92630

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **January 2, 2024**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Theodor C. Albert, JUDGE
United States Bankruptcy Court
411 West Fourth Street,
Suite 5085 / Courtroom 5B
Santa Ana, CA 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 2, 2024
Date

Alexander S. Bostic
Printed Name


Signature